CF0000057622

(2)

Single Bench (Criminal)

IN THE HIGH COURT OF MADHYAPRADESH AT JABALPUR

CRIMINAL APPEAL NO. 976 /1989.

APPELLANT- (Jail) Heera Lal S/o Mohitram Gond By Caste aged about 35 Years. Resident Of Village -Malga, P.S.-Jainagar, District- Surguja, M.p.

Versus

RESPONDENT- State Of Madhya Pradesh, Through P.S. Jainagar.

CRIMINAL APPEAL UNDER SECTION 374 OF THE CODE OF CRIMINAL PROCEDURE 1974.

XI-HC-22

(2)

(39)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक Cr.A. 976/1989 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

06.01.2006

Dr. N.K.Shukla, Senior Counsel assisted by Shri Kailash Rao and Shri Sunil Mersa, for the appellant.

Shri Utkarsh Verma, Dy. G.A. for the State.

The appeal is heard finally.

Vide order dated 22.11.1990 passed by this Court, this appeal has been admitted only on the question of sentence.

The appellant was convicted under Section 304-II of the I.P.C. and was sentenced to undergo R.I. for three years vide judgment dated 25.11.1989 delivered by Shri S.K.Mishra, Second Additional Sessions Judge, Ambikapur.

Brief facts are that the deceased Lali Bai was the wife of the accused appellant. On 24.11.1987 upon a sudden quarrel, the appellant assaulted Lali Bai over the head by *"Peedha"*. Lali Bai succumbed to the head injury and died on the spot.

Post-mortem report Ex.P/9 revealed that Lali Bai suffered the following external injuries:

i) Contusion was present on the skull over left frontal region sized 3 cm x 2 cm x 1 cm reddish in colour. On opening, scalp clotted blood was present.

ii) Lacerated wound was present in left parietal region of skull sized 4 cm x 0.5 cm. Clotted blood was present.

iii) Lacerated wound was present on the left occipital area of skull sized 3 ½ cm x 1 cm. Clotted blood was present under the scalp. Ante-mortem injury.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

There was a fracture of the skull in the left occipital region with haemorhage and blood clots present. The medical opinion shows that death was due to intracranial haemorrhage as a result of head injuries.

Dr. N.K.Shukla, learned Senior Counsel appearing on behalf of the appellant has placed reliance on *Dev Narain Pande vs. State (Delhi Admn.)* report in **1988 (1) Crimes 251** and *Desa Singh vs. State of Punjab* reported in **2003 Cr.L.J. 2986** and has contended that the appellant has already undergone the sentence for about 27 months and it is a fit case where the sentence should be reduced to the period already undergone by the appellant. On the other hand, Shri Utkarsh Verma, learned counsel for the State has opposed the prayer while supporting the sentence awarded by the trial Court.

Having considered the rival contentions and also considering the injuries sustained by Lali Bai, I am of the considered opinion that sentence awarded by the trial Court does not call for any interference by this Court.

In the result, the appeal is dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Anjani